

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
INBOUND COMPETITIVE MULTI-SERVICE AGREEMENTS WITH
FOREIGN POSTAL OPERATORS 1

HONGKONG POST – UNITED STATES POSTAL SERVICE
BILATERAL AGREEMENT (MC2010-34)
NEGOTIATED SERVICE AGREEMENT

Docket No. CP2015-91

**NOTICE OF THE UNITED STATES POSTAL SERVICE OF FILING MODIFICATION THREE
TO THE HONGKONG POST – UNITED STATES POSTAL SERVICE
BILATERAL AGREEMENT
(November 21, 2016)**

The agreement that is the subject of this docket, a bilateral agreement between the United States Postal Service (“Postal Service”) and Hongkong Post, (“Agreement”) is currently scheduled to expire on December 31, 2016.¹ The Postal Service and Hongkong Post have signed a modification to the Agreement to extend its expiration date by three months to March 31, 2017, absent earlier termination by the parties (“Modification Three”). An executed copy of Modification Three accompanies this notice as Attachment 1.

As background, the Agreement was originally scheduled to expire on June 30, 2016.² On June 16, 2016, the Postal Regulatory Commission (“Commission”) granted the request of the Postal Service to extend the expiration date of the Agreement until

¹ PRC Order No. 3518, Order Approving Modification Two to an Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. CP2015-91, September 16, 2016.

² United States Postal Service Response to Order No. 2578 Concerning Effective Date of an Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. CP2015-91, July 14, 2015.

September 30, 2016, in accordance with Modification One.³ On September 15, 2016 the Postal Service submitted a Notice regarding the filing of Modification Two to the Agreement with supporting documentation to establish compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5.⁴ On September 16, 2016, the Commission granted the request of the Postal Service to extend the expiration date of the Agreement until December 31, 2016, in accordance with Modification Two.⁵

Because of a variety of factors, including the complexity of the negotiations, the parties have not yet entered into a successor to the Agreement. Extension of the Agreement for one quarter (three months) will allow for the completion of negotiations on a successor contract; the duration of the three-month extension would correspond with the parties' quarterly invoicing. The Commission previously approved the extension of the Hongkong Post – Postal Service letter post bilateral to March 31, 2017.⁶ Approval of this Modification Three will permit the parties to complete negotiations of the market dominant and competitive bilateral agreements on the same timeline.

Accordingly, the Postal Service respectfully requests that the Commission approve Modification Three and continue to list the Agreement on the Mail Classification Schedule through March 31, 2017.

³ PRC Order No. 3375, Order Approving Modification One to an Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. CP2015-91, June 16, 2016.

⁴ Notice of the United States Postal Service of Filing Modification Two of the Hongkong Post – United States Postal Service Bilateral Agreement, Docket No. CP2015-91, September 15, 2016.

⁵ PRC Order No. 3518, Order Approving Modification Two to an Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. CP2015-91, September 16, 2016 (noting that “Modification Two does not affect the cost coverage or compliance with existing regulatory requirements for the Existing Agreement, and in the absence of harm to the public interest or prejudice to any party.”).

⁶ PRC Order No. 3620, Order Approving Modification One to Agreement and Denying as Moot Motion for Temporary Relief, Docket No. R2015-5, November 17, 2016.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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November 21, 2016

**MODIFICATION THREE TO THE
HONGKONG POST - UNITED STATES POSTAL SERVICE
AIR PARCEL AND EMS BILATERAL AGREEMENT**

This Modification amends the Hongkong Post – United States Postal Service Air Parcel and EMS Bilateral Agreement (“Agreement”) between the United States Postal Service (“USPS”), an independent establishment of the Executive Branch of the Government of the United States, with offices at 475 L’Enfant Plaza SW, Washington, DC 20260, and Hongkong Post (“Hongkong Post”), a government branch of the Hong Kong Special Administrative Region of People’s Republic of China, having a place of business at 4/F Hongkong Post Headquarters 2 Connaught Place, Central, Hong Kong, signed by the USPS and Hongkong Post on June 25, 2015, as amended by Modification One, signed by the USPS and Hongkong Post on June 14, 2016 and Modification Two, signed by the USPS on September 14, 2016 and by Hongkong Post on September 12, 2016. The USPS and Hongkong Post may be referred to individually as a “Party” and together as the “Parties.”

The Modification replaces the third sentence in paragraph 2 of Article 22 of the Agreement with the following replacement text:

“The Agreement shall remain in effect until March 31, 2017, unless terminated sooner pursuant to Article 8.”

All other terms and conditions of the Agreement shall remain in force.

The Parties acknowledge and understand that all obligations of the USPS under this Modification shall be contingent on the USPS receiving approvals from, and/or non-objection by (hereinafter “Conditions Precedent for this Modification”) one or more internal and external bodies that have oversight responsibilities. Conditions Precedent for this Modification may include but are not limited to: approvals or, if applicable, non-objection, from USPS senior management, the USPS Governors, the USPS Board of Governors, and/or the U.S. Postal Regulatory Commission. The Parties acknowledge that this Modification might not be approved by such bodies. Until such time that all Conditions Precedent for this Modification are fulfilled that are necessary to provide the products or services contemplated under this Modification, no obligation shall exist for the USPS or Hongkong Post under this Modification and no benefit or rights granted through this Modification shall inure to either Party unless and until the Conditions Precedent for this Modification have been fulfilled.

In the event that the Conditions Precedent for this Modification are not fulfilled, the USPS and Hongkong Post shall have no liability arising from this Modification, which shall include no obligation to pay costs associated with any action taken by Hongkong Post prior to the fulfillment of Conditions Precedent for this Modification. Further, in the event of the failure of any Condition Precedent for this Modification, neither Party shall be held liable for any damages relating to this Modification including, without limitation, the following: actual damages; special damages; indirect damages; incidental damages; punitive damages; consequential damages; or any other damages, which shall include but not be limited to damages for loss of business profits; business interruption; any other loss; and/or any cost incurred by either Party attributable to such non-approval such as attorney’s fees.

Hongkong Post acknowledges that as part of securing approval of this Agreement and in other subsequent regulatory filings, this Modification and supporting documentation will be filed with the U.S. Postal Regulatory Commission (“Commission”) in a docketed proceeding (CP2015-91). Hongkong Post also acknowledges that the USPS shall furnish a copy of this Modification to the U.S. Department of State. Hongkong Post authorizes the USPS to determine the scope of information that must be made publicly available in any Commission docketed proceeding in which information related to this Modification must be filed. Hongkong Post further understands that any unredacted portion of this Modification or supporting information may be posted on the Commission’s public website, <http://www.prc.gov>. In addition, the USPS may be required to file information in connection with this

Agreement (including revenue, cost, or volume data) in other Commission dockets including the Commission docket number for the Annual Compliance Report (ACR) for the USPS fiscal year(s) in which this Agreement is in effect. Each ACR docket has a distinct docket number, such as ACR201#, in which "201#" signifies the USPS fiscal year to which the ACR pertains. Hongkong Post has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. The procedure for making an application to the Commission for non-public treatment of materials believed to be protected from disclosure is found at Title 39, Code of Federal Regulations, Section 3007.22, on the Commission's website, <http://www.prc.gov/Docs/63/63467/Order225.pdf>. At Hongkong Post's request, the USPS will notify Hongkong Post of the docket number of other Commission proceedings, if any, used in connection with the filing of this Modification.

The Parties may execute this Modification in one or more counterparts (including by facsimile or by electronic means such as .pdf format). Not all Parties need be signatories to the same document. All counterpart signed documents shall be deemed an original and one instrument.

IN WITNESS WHEREOF, the Parties agree to be bound as of the latest date of signature to the terms and conditions of this Modification.

Hongkong Post



Patrick Lin
Director (External Affairs)
Relations Business

United States Postal Service



Cliff Rucker
Senior Vice President, Sales and Customer

16 Nov 2016
Date

11/16/2016
Date

